

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY *SJ* D.C.
05 SEP 27 AM 9:05
THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, JACKSON

HERBERT L. ODLE, d/b/a SPORTS)
CLUB, INC.; SHERILL DOUGLAS;)
JENIFER MARIE COSIMANO; JANE)
DOE I; and JANE DOE II,)

Plaintiffs,)

VS.)

No. 1:02-1278-T

DECATUR COUNTY, TENNESSEE;)
the DECATUR COUNTY)
COMMISSION; the DECATUR)
COUNTY, TENNESSEE,)
ADULT-ORIENTED)
ESTABLISHMENT BOARD,)

Defendants,)

AND)

the STATE OF TENNESSEE,)

Intervenor-Defendant.)

ORDER GRANTING PARTIAL JUDGMENT IN FAVOR OF PLAINTIFFS
AND
PERMANENT INJUNCTION

On October 14, 2003, the court entered an order granting summary judgment in favor of Decatur County, Tennessee; the Decatur County Commission; the Decatur County Adult-Oriented Establishment Board (collectively "the County"); and the State of Tennessee, on

216

all of Plaintiffs' First Amendment claims. (See Docket No. 52).¹ Plaintiffs appealed, and on August 26, 2005, the United States Court of Appeals for the Sixth Circuit affirmed in part and reversed in part. See Odle v. Decatur County, No. 03-6532, 2005 U.S. App. LEXIS 18412, at *2 (Aug. 26, 2005).² The appellate court affirmed the court's judgment in favor of the State of Tennessee on the ground that the state law in question was not an unconstitutional prior restraint on speech. Id. at *39. However, the court of appeals reversed the judgment in favor of the County Defendants, holding that the challenged county ordinance was substantially overbroad and thus in violation of the First (and Fourteenth) Amendment. Id.

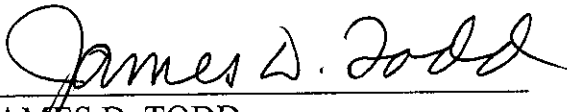
The Sixth Circuit remanded the case for the court to enter judgment in Plaintiffs' favor on the substantial overbreadth claim and also for the court to issue a permanent injunction prohibiting the County Defendants from enforcing the challenged ordinance,³ which is Decatur County, Tn Ordinance entitled "RESOLUTION NO. __ PROHIBITING CERTAIN ACTS, PRACTICES, and/or CONDUCT ON PREMISES LICENSED IN ACCORDANCE WITH T.C.A. SECTION 57-5-105 FOR SALE AND/OR CONSUMPTION OF BEER (May 22, 2000)." (Compl., Ex. B) (the "County Ordinance").


¹The clerk entered judgment in accordance with the October 14, 2003, Order on October 20, 2003. (See Docket No. 53).

²The appellate court's mandate issued on September 19, 2005.

³Odle, 2005 U.S. App. LEXIS, at *39.

Accordingly, judgment will be entered in favor of Plaintiffs on their claim that the County Ordinance is substantially overbroad. It is, furthermore, ORDERED, ADJUDGED, and DECREED that the Decatur County, Tennessee Defendants are PERMANENTLY ENJOINED from enforcing the unconstitutional County Ordinance. The clerk is directed to enter judgment consistent with this ORDER and PERMANENT INJUNCTION. IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE


DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 66 in case 1:02-CV-01278 was distributed by fax, mail, or direct printing on September 27, 2005 to the parties listed.

Steven A. Hart
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 20207
Nashville, TN 37202--020

Lloyd R. Tatum
TATUM AND TATUM
P.O. Box 293
Henderson, TN 38340

James Michael Ivey
LAW OFFICE OF J. MICHAEL IVEY
300 Tennessee Avenue, South
Parsons, TN 38363

Honorable James Todd
US DISTRICT COURT